IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 532 of 1993

in

SPECIAL CIVIL APPLICATIONNo 13660 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GENERAL SECRETARY

Versus

INDIAN OIL CORPORATION LTD.

Appearance:

MR RD RAVAL for Appellant

MR MR BHATT for Respondent

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 13/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

By this Letters Patent Appeal under clause 15 of the Letters Patent, the appellant, original-petitioner, has assailed the judgment and order of the learned single Judge recorded, on 7.12.93, whereby, the petition questioning the settlement with the respondent by another Union came to be rejected.

After having heard the learned advocates appearing for the parties, considering the factual scenario from the record coupled with the final order recorded by the Industrial Tribunal (Central), and also, the impugned order of the learned single Judge, dated 7.12.93, we are of the, clear, opinion that this Letters Patent Appeal is meritless and deserves to be rejected.

The Industrial Tribunal (Central) in its exhaustive and detailed impugned order in the petition, has dealt with the points raised and has directed only for the production of certain documents in course of the reference proceedings, by its order, dated 14.9.93. It has, also, taken into consideration the challenge made by the present appellant against the terms of settlement of revised promotion policy by filing Special Civil Application No.5087 of 1990, by the appellant, which came to be rejected. Again, Reference No.24/91 is directed to be made by the Central Government. It may be, also, recalled that in course of the earlier writ petition, the appellant-Union had also, preferred a Misc. Application No.245/92 in Special Civil Application No.5087/90 for review and clarification, which, also, came to be rejected by this Court, on 12.2.92. Permission to question the decision of this Court in earlier writ petition, before the Hon'ble Supreme Court was, also, rejected. This Court, in earlier writ petition, on challenge of the revised promotion policy arising out of the settlement between the recognised Union and the respondent herein, held the same as fair, just and reasonable.

Needless to reiterate that the jurisdictional sweep of a writ court entertaining a petition under Article 226 of the Constitution, is very much circumscribed. The power of the writ court under Article 226 of the Constitution is plenary, discretionary and equitable and while dealing with this kind of petition in exercise of its power under Article 226, it does not deal with as an appellate Court.

The scope of the powers under Article 226 is very well explained and extensively explored. In, reality, it is a judicial review and it has to be exercised if the authority below or the Tribunal has exceeded its jurisdiction or has committed gross error resulting into manifest failure of justice. Though the powers of the Court while exercising judicial review are very wide, the writ court cannot convert itself into an appellate forum. The main anxiety of the Court while dealing with a petition in exercise of its power under Article 226 is to see as to whether the impugned order or decision of the authority is, in any way, affected in so far as the process of decision making is concerned. The quality for the decision is not, "ipso facto," the anxiety of the Court. If the decision making process is, thus, influenced or coloured or visioned by any extraneous consideration, it would be proper and permissible for the writ court to exercise its power under Article 226 of the Constitution of India.

In view of the settled proposition of law and the projection of facts drawn from the record of the present case, we have no hesitation in finding that the judgment and order of the learned single Judge, dismissing the writ petition against the order of the Industrial Tribunal (Central) is, fully, justified requiring no interference in the present appeal. The appeal, therefore, deserves to be thrown, overboard. Consequently, the appeal is dismissed, leaving the parties to bear their own costs.

(J.N.Bhatt, J.)

(A.M.Kapadia,J.)
(vjn)